



April 8, 1999

Mr. Paul C. Sarahan
Litigation Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR99-0956

Dear Mr. Sarahan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123349.

The Texas Natural Resource Conservation Commission (the "TNRCC") received a request for complaints filed against Ridgeway/Universal Blueprint in Athens, Texas in the month of November 1998. You submit to this office representative samples of the requested information.¹ You claim that portions of the requested information are excepted from disclosure under section 552.101 of the Government Code and the informer's privilege. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The informer's privilege,

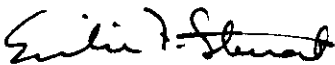
¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit a representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

incorporated into the Open Records Act by section 552.101, has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981)(citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990); 515 at 4-5 (1988). The informer's privilege protects the content of the communication only to the extent that it identifies the informant. *Roviaro*, 353 U.S. at 60. *See* Open Records Decision Nos. 515 at 2 (1988); 329 (1982).

TNRCC initiated its investigation because it received information from an informant about possible violations of Section 26.121 of the Water Code. The identity of the informant named in the investigation file is excepted from required public disclosure by the informer's privilege and section 552.101.² We have marked the representative sample accordingly.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 123349

²We were unable to identify the portions of Attachment C that you labeled.

Encl.: Marked documents

cc: Mr. Pat Ross
Universal Blueprint Paper Company
3403 County Road 4706
Athens, Texas 75751
(w/o enclosures)